

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
COURT FILE NO.: CV - _____**

Joe Hernandez, Plaintiff, v. GC Services Limited Partnership, Defendant.	<u>COMPLAINT</u> <u>JURY TRIAL DEMANDED</u>
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JURISDICTION

1. Jurisdiction of this Court arises under 28 U.S.C. § 1331 and pursuant to 15 U.S.C. § 1692k(d).
2. This action arises out of Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. ("FDCPA").

PARTIES

3. Plaintiff Joe Hernandez is a natural person who resides in the City of Farmington, County of Dakota, and the State of Minnesota, and is a "consumer" as that term is defined by 15 U.S.C. § 1692a(3).
4. Defendant GC Services Limited Partnership (hereinafter "Defendant") is a collection agency operating from an address of 6330 Gulfton, Houston, TX 77081, and is a "debt collector" as that term is defined by 15 U.S.C. § 1692a(6).

FACTUAL ALLEGATIONS

5. Sometime prior to December 2007 Plaintiff allegedly incurred a “consumer debt,” as that term is defined by 15 U.S.C. § 1692a(5), with JC Penney’s.
6. Sometime in December 2007 Defendant and its representative called Plaintiff’s home and spoke with Plaintiff’s babysitter.
7. Plaintiff had not previously disclosed or shared any information about the alleged JC Penny debt with his babysitter.
8. Defendant specifically asked Plaintiff’s babysitter if she was Plaintiff’s wife, to which she clearly replied “no” and volunteered to take a message.
9. Defendant ignored the offer and continued on in the conversation with Plaintiff’s babysitter specifically disclosing to her about Plaintiff’s alleged debt in violation of 15 U.S.C. §§ 1692b(2), 1692d and 1692f.
10. Plaintiff’s babysitter informed Plaintiff about the telephone call when he returned home.
11. Plaintiff was embarrassed as a result of Defendant’s conduct and disclosure.

TRIAL BY JURY

12. Plaintiff is entitled to and hereby demands a trial by jury. US Const. amend. 7.
Fed. R. Civ. Pro. 38.

CAUSES OF ACTION

COUNT I.

VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT

15 U.S.C. § 1692 et seq.

13. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
14. The foregoing acts and omissions of Defendant constitute numerous and multiple violations of the FDCPA, including but not limited to each and every one of the above-cited provisions of the FDCPA, 15 U.S.C. § 1692 et seq.
15. As a result of Defendant's violations of the FDCPA, Plaintiff has suffered actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages in the amount of \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A); and, reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against Defendant for:

- for an award of actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against Defendant;
- for an award of statutory damages of \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A) against Defendant;
- for an award of costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3) against Defendant; and

- for such other and further relief as may be just and proper.

Dated this 28th day of April, 2008.

Respectfully submitted,

By: s/Thomas J. Lyons, Jr.

CONSUMER JUSTICE CENTER P.A.

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VERIFICATION OF COMPLAINT AND CERTIFICATION BY
PLAINTIFF

STATE OF MINNESOTA)
) ss
COUNTY OF DAKOTA)

Joe Hernandez, having first been duly sworn and upon oath, deposes and says as follows:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorney and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification, or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this civil Complaint in good faith and solely for the purposes set forth in it.

s/Joe Hernandez
Joe Hernandez

Subscribed and sworn to before me
this 15 day of April, 2008.

s/Amanda Lee Van Bogart
Notary Public